

**IN THE FRANKLIN COUNTY MUNICIPAL COURT  
ENVIRONMENTAL DIVISION  
COLUMBUS, OHIO**

**STATE EX. REL**  
**COLUMBUS CITY ATTORNEY**  
**ZACH KLEIN**  
375 South High Street, 17th Floor  
Columbus, Ohio 43215

Relator-Plaintiff,

v.

**EQUITY TRUST COMPANY**  
**CUSTODIAN FBO JANICE O'BRIEN**  
**ROTH IRA**  
4158 Hertford Lane  
Dublin, Ohio 43062

and

**UNKNOWN TENANTS OF**  
**42 SOUTH BURGESS AVENUE**  
42 South Burgess Avenue  
Columbus, Ohio 43204

AND

**CHERYL BROOKS SULLIVAN**  
**FRANKLIN COUNTY TREASURER**  
373 South High Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215

AND

**REAL PROPERTY LOCATED AT:**  
**42 SOUTH BURGESS AVENUE**  
42 South Burgess Avenue  
Columbus, Ohio 43204

Respondents-Defendants.

Case No.

Judge Stephanie Mingo

Parcel No. 010-028248-00

## **VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF**

### **Parties**

1. Relator-Plaintiff Zach Klein (“Plaintiff”) is the duly-elected, sworn, and acting City Attorney for the City of Columbus, Ohio and is a party charged at both common law and by R.C. § 3767.03 with the prevention, prosecution, and abatement of any public nuisance within the City of Columbus, Franklin County, Ohio.
2. Plaintiff, Columbus, Ohio, is a municipal corporation organized under the Constitution and laws of the State of Ohio as well as the Charter, ordinances, and codes of the City of Columbus, Ohio. Zach Klein is the duly elected City Attorney for the City of Columbus, Ohio, and brings this action in his official capacity.
3. Plaintiff, Columbus, Ohio has standing pursuant to C.C.C. §101.08 to bring an action seeking an injunction to prevent violations of Title 7, 45 and 47 of the Columbus City Code.
4. Additionally, Plaintiff has standing pursuant to O.R.C. §§ 713.13 and/or 715.30 to bring an action seeking an injunction to prevent violations of its ordinances of the City of Columbus, Ohio.
5. The real property that is the subject matter of this complaint is located at 42 South Burgess Avenue, Columbus, Ohio 43204, known as Franklin County Permanent Parcel No. 010-028248 (hereinafter “the Premises”), situated in the City of Columbus, Franklin County, Ohio. This action is also in rem with respect to the Premises.
6. Equity Trust Company Custodian FBO Janice O’Brien Roth IRA, has been the record owner of the Premises since March 18, 2005, by virtue of a Limited Deed, Instrument Number 200503180050477 filed with the Franklin County Recorder.

7. Unknown Tenants are "owners" as defined by Columbus City Code being individuals in charge, care and control of the property pursuant to Columbus City Code §4703.01 (E) (5) and (6) and are in charge, care and control of Premises.
8. Cheryl Brooks Sullivan is the duly appointed, sworn, and serving Treasurer of Franklin County, Ohio, and may claim an interest in the property for unpaid taxes.
9. Respondents-Defendants Unknown Tenants have occupied the Premises and/or exerted charge, care and control over it.

### **Jursidiction & Venue**

10. This complaint concerns enforcement of Ohio Revised Code (hereinafter "R.C.") Chapter 3767 et seq., and Columbus City Code Titles 7, 45 and 47 so as to be within the exclusive jurisdiction of the Environmental Division of the Franklin County Municipal Court pursuant to R.C. § 1901.181.
11. The Court has personal jurisdiction over the individual defendants pursuant to O.R.C. §2307.382(A)(8), since the basis of this complaint is real property located in Franklin County, Ohio.
12. The Court is a proper venue pursuant to Civ.R. 3(B)(5), since the subject of the action is real property situated in Franklin County, Ohio.

### **Facts - Criminal Activity**

13. The Premises is a single family residence located on the west side of the City of Columbus in the Hilltop neighborhood.
14. Since February 20, 2018, the Columbus Division of Police ("CPD") has been dispatched to the Premises over 60 times for numerous runs, including:
  - a. Nineteen (19) firearm related incidents;
  - b. Eleven (11) disturbances;
  - c. Four (4) assaults;

- d. Four (4) suspicious persons;
  - e. Three (3) narcotics complaints; and
  - f. One (1) burglary.
15. On February 20, 2018, the Columbus Division of Police (“CPD”) responded to a well-being check from a caller who stated they could hear a young child inside the residence screaming and asking for “Mommy and Daddy.” The caller stated they saw the parents leave over thirty minutes ago and had knocked on the door but no one came.
16. On May 20, 2018, CPD responded to the Premises on report of a suspicious vehicle.
17. Again on May 20, 2018, an individual reported a suspicious vehicle at the Premises.
18. On June 18, 2019, CPD responded to the Premises on report of a domestic dispute involving a husband and wife. The wife indicated that her husband has a meth addiction and has been in and out of the home. On this day, he came to the house looking for his tools which she had sold to feed their children. The husband became enraged and began twisting the mothers arm. The husband later broke the wife’s windshield and then drove away. While officers were at the scene, the husband was seen down the block on his motorcycle. Officers attempted to wave down the husband but he impolitely responded “Fuck you” and fled the scene. Later that day, Officer Chung conducted a traffic stop of the husband during which time he verified that the husband had active warrants for domestic violence, assault, no operator’s license, and driving under suspension.
19. On June 26, 2019, CPD responded to the Premises on report of a disturbance.
20. On August 30, 2019, CPD responded to the Premises on report of a disturbance.
21. Beginning in September 2019, Officers began to notice an increased number of local gang members hanging around the premises which also coincided with an increased number of calls for service at the Premises. Officers began receiving Shotspotter calls in the area and responded to a shooting directly across the street. In total, CPD received eleven (11) Shotspotter reports

for the area. During most incidents, witnesses pointed to 42 South Burgess as the source of the firearm discharges. Additional activity was consistent with narcotics trafficking where visitors would enter through the rear, stay for a few minutes, and then depart.

22. On September 7, 2019, CPD responded to the Premises on report of a burglary alarm.
23. On September 12, 2019, CPD responded to the Premises on report of suspicious person.
24. On September 17, 2019, CPD received a call of a disturbance at the Premises. The caller indicated that individuals who do not live in the area are selling drugs out of the house.
25. On September 20, 2019, CPD responded to the Premises on report of narcotics being sold at the Premises and the drugs were kept in the garage.
26. On September 22, 2019, Officer Clouse was on patrol in the area when he observed two individuals arguing in front of 35 South Burgess Avenue. As the argument escalated, individuals began to emerge from 42 South Burgess and 62 South Burgess Avenue with some carrying baseball bats. When the individuals observed Officer Clouse's cruiser, they dispersed. At the time, Officer Clouse had noted that the Premises was a known narcotics house and associated with 35 South Burgess Avenue.
27. On September 26, 2019, CPD responded to the Premises on a report of a suspicious person.
28. Also on September 26, 2019, CPD responded to the Premises after Shotspotter reported two shots fired at the Premises.
29. Also on September 26, 2019, CPD was at the Premises and observed known narcotics users coming and going from the residence. Officers approached a vehicle in the rear of the Premises and observed a white male bend over his seat when he saw officers. Officers conducted a pat down of the individual and located a meth pipe.
30. On September 27, 2019, CPD responded to a report of a missing person at the Premises.
31. On October 15, 2019, CPD responded to the Premises on a report of a male with a gun threatening another male.

32. On October 21, 2019, CPD responded to the Premises on report of a person with a gun. The caller stated that a male black that goes by the name "Savage" AKA Juan Jones was outside waving a gun. Jones is currently prohibited from possessing firearms due to previous convictions for felonious assault and felony drug possession. The caller stated that Savage had threatened to shoot up the house in the past.
33. On October 22, 2019, CPD responded to the Premises on report that Savage was back at the Premises knocking on the door and carrying a gun.
34. Again on October 22, 2019, CPD was called to the Premises, this time on an assault call. The caller stated they were slapped by Savage.
35. On October 23, 2019, CPD received a call regarding a disturbance at the Premises. The caller also reported drug dealing at this location.
36. On October 24, 2019, CPD responded to the Premises on report of a person in front of the residence, pointing a gun at the house.
37. On October 25, 2019, CPD responded to the Premises on report of a disturbance involving approximately eight individuals, including Savage. It was reported that Savage was carrying a gun.
38. On October 27, 2019, CPD Officer Bell was on patrol in the area and observed a vehicle with running lights parked in front of the residence. Officer Bell knew the house to be a house where suspected drug sales were taking place and officers had recovered numerous stolen vehicles from the location. Officer Bell ran the tags of the vehicle and learned that it had been reported stolen. The driver of the vehicle was a listed suspect in the vehicle theft and also had an active warrant out of Morrow County for aggravated arson.
39. On November 10, 2019, CPD responded to the Premises on report of an assault. The caller stated that the suspect was still at the house.

40. On February 4, 2020, CPD received a call for service that there was an individual with a gun inside the house attempting to take over the house for the purpose of narcotics sales.
41. On February 5, 2020, a caller requested a well-being check of three small children at the residence. The caller was concerned due to the fact narcotics were sold from the residence.
42. On February 7, 2020, CPD responded to the Premises on report of a domestic violence incident.
43. On February 9, 2020, CPD responded to a group of juveniles were found attempting to kick in the front door of 42 South Burgess Avenue. Upon their arrival, officers found that the situation was a dispute.
44. On February 10, 2020, CPD conducted a traffic stop of a vehicle leaving the residence. The occupant provided information regarding the occupants of the Premises. The informant stated that Savage and a female named "Bunny", were dealing drugs out of the residence and young gang members that regularly carry firearms come and go from the residence.
45. On February 11, 2020, CPD responded to the Premises on report of a dispute.
46. On February 17, 2020, CPD SWAT executed a search warrant at the Premises. Nineteen individuals were found inside the residence along with hundreds of heroin needles and what appeared to be hastily disposed of narcotics residue. In the course of executing the search warrant, detectives recovered the following:
- a. Five (5) digital scales;
  - b. White powder residue;
  - c. Two (2) meth pipes;
  - d. Two (2) grams of marijuana.
47. Also inside the residence during the February 17, 2020 search warrant, officer located two individuals with active warrants. One of these individuals was found to have approximately one gram of methamphetamine hidden in her bra.
48. On March 4, 2020, CPD responded to the Premises on report of a person with a gun.

49. On March 9, 2020, CPD responded to the Premises on an unknown complaint as well as an open door or window.
50. On March 10, 2020, CPD responded to the Premises on report of a disturbance.
51. On March 12, 2020, Officers Bell and Betts conducted a traffic stop of an individual seen leaving the Premises. The individual was found to be in possession of multiple syringes and other drug paraphernalia used to smoke crack cocaine.
52. On March 14, 2020, CPD responded to the Premises on report of a person with a gun.
53. On March 15, 2020, CPD responded to the Premises on report of a person with a gun. When officers arrived they found no one outside but did observe several individuals inside the detached garage. When officers made contact they found multiple individuals. One individual was identified by the tenant of the property but another was found hiding in the storage compartment of a gas grill. The male refused to leave the grill and was subsequently tipped out of the grill so that officers could speak with him. During their interaction, the individual provided a false name and stated that he had just taken fentanyl and was overdosing. The individual was subsequently transported to a hospital for treatment.
54. On March 19, 2020, CPD responded to the Premises on report of a disturbance.
55. Also on March 19, 2020, CPD responded to the Premises on report of a fight.
56. On March 20, 2020, CPD responded to the Premises on report of a disturbance.
57. On April 12, 2020, CPD officers pursued a vehicle that was leaving the Premises. Upon making a stop of the vehicle, officers recovered ninety-nine (99) grams of suspected narcotics in the form of a white powder substance in a plastic bag which an individual attempted to conceal inside the cruiser. It was also later determined that the vehicle officers were pursuing was stolen.

#### **CLAIM FOR RELIEF**

58. Plaintiff incorporates the preceding paragraphs 1 through 57 as if fully incorporated herein.

59. On March 9, 2020, the Governor of Ohio issued Executive Order 2020-01D and declared a state of emergency in Ohio in response to COVID-19.
60. On March 13, 2020, the Columbus Board of Health passed Resolution No. 20-08, a declaration of Public Health Emergency to include the cities of Columbus and Worthington, in response to the developing community health crisis surrounding COVID-19.
61. Relator-Plaintiff asks that any requested remedies available under R.C. 3767 or contained in the complaint, conform to Executive Order 2020-01D and Columbus Board of Health Resolution No. 20-08 and take into account the COVID-19 global pandemic and the state of emergency in Ohio.

### **Criminal Activity**

62. Relator-Plaintiff alleges that the Premises is a public nuisance as defined in § 3767.01 and/or R.C. § 3767.12 (et seq.), C.C.C. 4703.01(F), and under common law, subject to abatement under R.C. § 3767.
63. Relator-Plaintiff asserts that the Premises herein is generally reputed to be kept, conducted, and maintained for the purposes of committing violations of Ohio Revised Code 2925 (Drug Offenses), and for the purposes of illegal activity, including prostitution.
64. Respondents-Defendants are guilty of maintaining a nuisance at the Premises, subject to abatement in accordance with R.C. 3767.01 (et seq.), for having a structure in violation of the laws pertaining to illegal drugs (including violations of R.C. Chapter 2925, R.C., R.C. 3719.10, etc.); such operations, and criminal activity at the premises, substantially interferes with the area's public decency, sobriety, peace, safety, welfare, and good order.
65. Respondents-Defendants own fixtures, furniture, and moveable property that have been used or are currently being used in conducting, maintaining, and facilitating said public nuisance.

66. Respondents-Defendants at all times relevant to this action maintained a public nuisance threatening the health, safety, and welfare of the People of the City of Columbus (and the health, safety, and welfare of those at the Premises, and that of Columbus Police).
67. Respondents-Defendants are guilty of maintaining a nuisance at the Premises based on their actual and constructive knowledge of the nuisance, as well as the well-known general reputation of the premises, which is prima-facie evidence of the nuisance and of knowledge of and of acquiescence and/or participation in the nuisance.
68. Relator-Plaintiff asserts that the Premises herein is generally reputed to be kept, conducted, and maintained for the purposes of committing violations of Ohio Revised Code 2925 (Drug Offenses), and for the purposes of illegal activity.
69. Respondents-Defendants are guilty of maintaining a nuisance at the Premises, subject to abatement in accordance with R.C. 3767.01 (et seq.), for having a structure in violation of the laws pertaining to illegal drugs (including violations of R.C. Chapter 2925, R.C., R.C. 3719.10, etc.); such operations, and criminal activity at the premises, substantially interferes with the area's public decency, sobriety, peace, safety, welfare, and good order.
70. Respondents-Defendants own fixtures, furniture, and moveable property that have been used or are currently being used in conducting, maintaining, and facilitating said public nuisance.
71. Respondents-Defendants at all times relevant to this action maintained a public nuisance threatening the health, safety, and welfare of the People of the City of Columbus (and the health, safety, and welfare of those at 42 South Burgess Avenue, and that of Columbus Police).

### **JUDGMENT AND RELIEF DEMANDED**

WHEREFORE, Plaintiff demands judgment as follows:

72. Per R.C. § 3767 and Ohio Civ.R. 65(B)(1), that the court set a preliminary injunction hearing on the matter.

73. A determination that the Premises constitutes and be declared a public nuisance as defined by O.R.C. § 3767.01, § 3767.12(et seq), 3767.41(A)(2) and/or C.C.C. § 4703.01(F) and under common law, subject to abatement under R.C. §3767.
74. That the Premises be declared a public nuisance as defined in Ohio Revised Code § 3767.01 and/or R.C. § 3767.12 (et seq.), C.C.C. 4703.01(F), and under common law, as alleged herein.
75. That all Respondents-Defendants be found to have been guilty of maintaining a public nuisance as defined in R.C. § 3767.01 and/or R.C. § 3767.12 (et seq.), C.C.C. 4703.01(F), and under common law, as alleged herein.
76. In accordance with this Complaint and Revised Code Chapter 3767, that all Respondents-Defendants, and any heirs, successors in interest or title, transferees and/or assigns be permanently enjoined from conducting, maintaining, using, occupying, or in any way permitting the use of the premises as a public nuisance.
77. In accordance with this Complaint and Revised Code Chapter 3767, that all Respondents-Defendants be permanently enjoined from conducting, maintaining, using, occupying, or in any way permitting the use of a public nuisance anywhere in Franklin County, Ohio and/or Columbus, Ohio.
78. On final judgment, the Chief of Police of Columbus, Ohio, be ordered to sell the furniture, fixtures, and moveable property identified herein in the manner provided for the sale of chattels under execution, and effectually close the entire premises against its use for a one year period per Civ.R. 65 and R.C. Chapter 3767 et seq.
79. To tax Respondents-Defendants \$300 in accordance with Revised Code § 3767.08, plus the costs of this action.
80. An order requiring the defendant(s) and any successor(s) in interest or title to bring the Premises into compliance with any and all applicable provisions of the Columbus City Code and/or Ohio Revised Code.

81. An order preliminarily and permanently enjoining the defendant(s) and any successor(s) in interest or title from further violating any and all applicable provisions of the Columbus City Code and/or Ohio Revised Code at the Premises.

82. An order prohibiting reoccupancy of the Premises prior to passing an interior inspection and remedying all health, safety, and housing code violations.

**Public Nuisance**

83. A determination that the Premises constitutes and be declared a public nuisance as defined by C.C.C. Sections 4501.275, 4703.01(F) and/or O.R.C. Section 3767.41(A)(2)

84. An order preliminarily and permanently enjoining the defendant(s) and any successor(s) in interest or title from maintaining a public nuisance at the Premises.

85. An order preliminarily and permanently enjoining the defendant(s) from maintaining a public nuisance within the territorial limits of Franklin County, Ohio.

**Plaintiff to Abate**

86. Authorize Plaintiff, Plaintiff's agent pursuant to O.R.C. § 715.261(E), and/or Plaintiff's private contractor to enter onto the Premises and perform abatement activity pursuant to C.C.C. § 4701.08 and O.R.C. §§ 715.26 and/or 715.261, including, but not limited to, demolishing any and all structures located on the Premises.

87. Authorize Plaintiff, and/or its agent pursuant to O.R.C. § 715.261(E), to recover the total cost of abatement activity pursuant to C.C.C. § 4701.08, and/or R.C. §§ 715.261(B) including, but not limited to: (1) certifying the costs to the county auditor for placement as a charge upon the Premises' tax list, (2) commencing a civil action, and (3) filing a lien on the Premises and pursuing a foreclosure action for a minimum bid equal to the sum of the taxes, penalties, interest, costs, assessments, total cost of abatement activity and any associated court costs and interest.

**Additional Relief**

88. An award of Plaintiff's costs and attorney's fees payable by defendant(s).

89. All such further equitable and other relief as the Court determines Plaintiff to be entitled.

Respectfully submitted,

**CITY OF COLUMBUS, DEPARTMENT OF LAW  
ZACH KLEIN, CITY ATTORNEY**

*/s/ Zach Gwin*\_\_\_\_\_

Zach Gwin (0092170)

Assistant City Attorney

375 South High Street, 17<sup>th</sup> Floor

Columbus, Ohio 43215

Phone: 614-645-8928

Fax: 614-645-6548

[zsgwin@columbus.gov](mailto:zsgwin@columbus.gov)

*Attorney for Plaintiff City of Columbus*